

AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 519

**Introduced by Senator Hancock
(Coauthor: Senator Leno)**

February 26, 2015

An act to amend Sections 13952 ~~and~~, 13955, 13956, 13957, 13958, and 13959 of, *and to add Section 13955.5 to*, the Government Code, and to amend Sections 1050, 1202.4, 1203.4, 1203.4a, and 1203.41 of the Penal Code, relating to victims of crime, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 519, as amended, Hancock. Victims of ~~crime: compensation.~~ *crime.*

(1) Existing law provides for the indemnification of victims and derivative victims of specified types of crimes by the California Victim Compensation and Government Claims Board, subject to specified criteria for, among other things, submission and verification of applications, eligibility for emergency awards and compensation for specified services, *and* procedures for hearings with respect to the denial of awards, ~~and publicizing of the program by the board.~~ *awards. Existing law requires the board to publicize programs related to these provisions, including, among others, the procedures to obtain compensation from the board. Payment is of claims and certain programs administered by the board are made under these provisions from the Restitution Fund, which is continuously appropriated to the board for these purposes.*

This bill would require all correspondence by the board to an applicant to be written in English, Spanish, and Chinese. The bill would prohibit the board from requiring an applicant to submit documentation from

the Internal Revenue Service, the Franchise Tax Board, the State Board of Equalization, the Social Security Administration, or the Employment Development Department in order to determine eligibility for compensation.

This bill would expand eligibility for compensation for crime victims to include counseling to a person who is an adult witness of a crime. The bill would also expand eligibility for compensation for mental health services and relocation benefits to a person who is 65 years of age or older and sustained financial exploitation by a relative or caretaker, if there is a reasonable fear of continued exploitation.

By expanding the requirements of programs administered by the board and the eligibility for payments from a continuously appropriated fund, this bill would make an appropriation.

(2) Existing law authorizes the board to compensate an individual who voluntarily, and without anticipation of personal gain, pays or assumes the obligation to pay a crime victim's funeral and burial expenses, up to \$7,500, incurred as a direct result of the crime.

This bill would require the board when it pays a claim to compensate funeral and burial expenses to pay the amount of \$7,500.

~~(2)~~

(3) Existing law requires an application for compensation to be denied if the board finds that the victim failed to cooperate reasonably with a law enforcement agency in the apprehension and conviction of a criminal committing a crime. Existing law also requires an application for compensation to be denied if a person has been convicted of a felony and is not discharged from probation.

This bill would prohibit a claim from being denied pursuant to these provisions in any case in which the victim is eligible for compensation as a minor. This bill would also remove the prohibition against granting compensation to a person convicted of a felony, but not discharged from parole, if the compensation is solely used to fund mental health counseling. By expanding the eligibility for payments from a continuously appropriated fund, this bill would make an appropriation.

(4) Existing law requires the board to approve or deny applications, based on recommendations of the board staff, within an average of 90 calendar days and no later than 180 calendar days of acceptance by the board or victim center, and to report to the Legislature if the board fails to do so, as specified.

This bill would require the board to approve or deny applications within 90 days total and modifies the reporting requirements accordingly.

(5) Existing law requires board hearings to be informal and authorizes these hearing to not be conducted according to the technical rules relating to evidence and witnesses.

This bill would require the board to allow an animal to accompany and support a witness while testifying at a board hearing.

(6) Existing law authorizes a party to a criminal proceeding to move for a continuance upon a showing of good cause. Existing law describes “good cause” for purposes of that provision.

This bill would specify that “good cause” is deemed to exist when a witness, who is the victim of the charged crime and has previously been the victim of elder abuse or certain sex crimes, cannot be present due to psychological or emotional distress resulting from that prior victimization.

(7) Existing law requires the court to order a person who is convicted of a crime to pay restitution to the victim or victims for the full amount of economic loss, unless the court finds compelling and extraordinary reasons for not doing so and states them on the record. Existing law provides the defendant the right to a hearing before a judge to dispute the determination of the amount of restitution and authorizes the court to modify the amount of restitution.

This bill would authorize a witness at a restitution or modification hearing to testify by live, 2-way audio and video transmission.

~~(3)~~

(8) Existing law permits a defendant to withdraw his or her plea of guilty or plea of nolo contendere and enter a plea of not guilty in any case in which a defendant has fulfilled the conditions of probation for the entire period of probation, or has been discharged prior to the termination of the period of probation, or has been convicted of a misdemeanor and not granted probation and has fully complied with and performed the sentence of the court, or has been sentenced to a county jail for a felony, or in any other case in which a court, in its discretion and the interests of justice, determines that a defendant should be granted this or other specified relief and requires the defendant to be released from all penalties and disabilities resulting from the offense of which he or she has been convicted.

This bill would state that the dismissal of an accusation or information underlying a conviction pursuant to these provisions does not relieve a

person from paying a restitution fine or direct restitution. By increasing the revenues deposited into a continuously appropriated fund, this bill would make an appropriation.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 13952 of the Government Code is
2 amended to read:

3 13952. (a) An application for compensation shall be filed with
4 the board in the manner determined by the board.

5 (b) (1) The application for compensation shall be verified under
6 penalty of perjury by the individual who is seeking compensation,
7 who may be the victim or derivative victim, or an individual
8 seeking reimbursement for burial, funeral, or crime scene cleanup
9 expenses pursuant to subdivision (a) of Section 13957. If the
10 individual seeking compensation is a minor or is incompetent, the
11 application shall be verified under penalty of perjury or on
12 information and belief by the parent with legal custody, guardian,
13 conservator, or relative caregiver of the victim or derivative victim
14 for whom the application is made. However, if a minor seeks
15 compensation only for expenses for medical, medical-related,
16 psychiatric, psychological, or other mental health
17 counseling-related services and the minor is authorized by statute
18 to consent to those services, the minor may verify the application
19 for compensation under penalty of perjury.

20 (2) For purposes of this subdivision, “relative caregiver” means
21 a relative as defined in subdivision (h) of Section 6550 of the
22 Family Code, who assumed primary responsibility for the child
23 while the child was in the relative’s care and control, and who is
24 not a biological or adoptive parent.

25 (c) (1) The board may require submission of additional
26 information supporting the application that is reasonably necessary
27 to verify the application and determine eligibility for compensation.

28 (2) The staff of the board shall determine whether an application
29 for compensation contains all of the information required by the
30 board. If the staff determines that an application does not contain
31 all of the required information, the staff shall communicate that
32 determination to the applicant with a brief statement of the

1 additional information required. The applicant, within 30 calendar
2 days of being notified that the application is incomplete, may either
3 supply the additional information or appeal the staff's
4 determination to the board, which shall review the application to
5 determine whether it is complete.

6 (3) The board shall not require an applicant to submit
7 documentation from the Internal Revenue Service, the Franchise
8 Tax Board, the State Board of Equalization, the Social Security
9 Administration, or the Employment Development Department in
10 order to determine eligibility for compensation.

11 (d) (1) The board may recognize an authorized representative
12 of the victim or derivative victim, who shall represent the victim
13 or derivative victim pursuant to rules adopted by the board.

14 (2) For purposes of this subdivision, "authorized representative"
15 means any of the following:

16 (A) An attorney.

17 (B) If the victim or derivative victim is a minor or an
18 incompetent adult, the legal guardian or conservator, or an
19 immediate family member, parent, or relative caregiver who is not
20 the perpetrator of the crime that gave rise to the claim.

21 (C) A victim assistance advocate certified pursuant to Section
22 13835.10 of the Penal Code.

23 (D) An immediate family member of the victim or derivative
24 victim, who has written authorization by the victim or derivative
25 victim, and who is not the perpetrator of the crime that gave rise
26 to the claim.

27 (E) Other persons who shall represent the victim or derivative
28 victim pursuant to rules adopted by the board.

29 (F) A county social worker designated by a county department
30 of social services to represent a child abuse victim or an elder
31 abuse victim if that victim is unable to file on his or her own behalf.

32 (3) Except for attorney's fees awarded under this chapter, no
33 authorized representative described in paragraph (2) shall charge,
34 demand, receive, or collect any amount for services rendered under
35 this subdivision.

36 (e) All correspondence by the board to an applicant shall be
37 written in English, Spanish, and Chinese.

38 *SEC. 2. Section 13955 of the Government Code is amended to*
39 *read:*

1 13955. Except as provided in Section 13956, a person shall be
2 eligible for compensation when all of the following requirements
3 are met:

4 (a) The person for whom compensation is being sought is any
5 of the following:

6 (1) A victim.

7 (2) A derivative victim.

8 (3) (A) A person who is entitled to reimbursement for funeral,
9 burial, or crime scene cleanup expenses pursuant to paragraph (9)
10 of subdivision (a) of Section 13957.

11 (B) This paragraph applies without respect to any felon status
12 of the victim.

13 (b) Either of the following conditions is met:

14 (1) The crime occurred within this state, whether or not the
15 victim is a resident of the state. This paragraph shall apply only
16 during those time periods during which the board determines that
17 federal funds are available to the state for the compensation of
18 victims of crime.

19 (2) Whether or not the crime occurred within the State of
20 California, the victim was any of the following:

21 (A) A resident of the state.

22 (B) A member of the military stationed in California.

23 (C) A family member living with a member of the military
24 stationed in this state.

25 (c) If compensation is being sought for a derivative victim, the
26 derivative victim is a resident of this state, or resident of another
27 state, who is any of the following:

28 (1) At the time of the crime was the parent, grandparent, sibling,
29 spouse, child, or grandchild of the victim.

30 (2) At the time of the crime was living in the household of the
31 victim.

32 (3) At the time of the crime was a person who had previously
33 lived in the household of the victim for a period of not less than
34 two years in a relationship substantially similar to a relationship
35 listed in paragraph (1).

36 (4) Is another family member of the victim, including, but not
37 limited to, the victim's fiancé or fiancée, and who witnessed the
38 crime.

39 (5) Is the primary caretaker of a minor victim, but was not the
40 primary caretaker at the time of the crime.

1 (d) The application is timely pursuant to Section 13953.

2 (e) (1) Except as provided in paragraph (2), the injury or death
3 was a direct result of a crime.

4 (2) Notwithstanding paragraph (1), no act involving the
5 operation of a motor vehicle, aircraft, or water vehicle that results
6 in injury or death constitutes a crime for the purposes of this
7 chapter, except when the injury or death from such an act was any
8 of the following:

9 (A) Intentionally inflicted through the use of a motor vehicle,
10 aircraft, or water vehicle.

11 (B) Caused by a driver who fails to stop at the scene of an
12 accident in violation of Section 20001 of the Vehicle Code.

13 (C) Caused by a person who is under the influence of any
14 alcoholic beverage or drug.

15 (D) Caused by a driver of a motor vehicle in the immediate act
16 of fleeing the scene of a crime in which he or she knowingly and
17 willingly participated.

18 (E) Caused by a person who commits vehicular manslaughter
19 in violation of subdivision (b) of Section 191.5, subdivision (c) of
20 Section 192, or Section 192.5 of the Penal Code.

21 (F) Caused by any party where a peace officer is operating a
22 motor vehicle in an effort to apprehend a suspect, and the suspect
23 is evading, fleeing, or otherwise attempting to elude the peace
24 officer.

25 (f) As a direct result of the crime, the victim or derivative victim
26 sustained one or more of the following:

27 (1) Physical injury. The board may presume a child who has
28 been the witness of a crime of domestic violence has sustained
29 physical injury. A child who resides in a home where a crime or
30 crimes of domestic violence have occurred may be presumed by
31 the board to have sustained physical injury, regardless of whether
32 the child has witnessed the crime.

33 (2) Emotional injury and a threat of physical injury.

34 (3) Emotional injury, where the crime was a violation of any of
35 the following provisions:

36 (A) Section 236.1, 261, 262, 271, 273a, 273d, 285, 286, 288,
37 288a, 288.5, or 289, or subdivision (b) or (c) of Section 311.4, of
38 the Penal Code.

1 (B) Section 270 of the Penal Code, where the emotional injury
2 was a result of conduct other than a failure to pay child support,
3 and criminal charges were filed.

4 (C) Section 261.5 of the Penal Code, and criminal charges were
5 filed.

6 (D) Section 278 or 278.5 of the Penal Code, where the
7 deprivation of custody as described in those sections has endured
8 for 30 calendar days or more. For purposes of this paragraph, the
9 child, and not the nonoffending parent or other caretaker, shall be
10 deemed the victim.

11 (4) Injury to, or the death of, a guide, signal, or service dog, as
12 defined in Section 54.1 of the Civil Code, as a result of a violation
13 of Section 600.2 or 600.5 of the Penal Code.

14 (5) *Financial exploitation by a relative or caretaker for a victim*
15 *who is 65 years of age or older and there is a reasonable fear of*
16 *continued exploitation. In this instance, the victim shall only be*
17 *eligible for compensation for mental health services and relocation*
18 *benefits.*

19 (g) The injury or death has resulted or may result in pecuniary
20 loss within the scope of compensation pursuant to Sections 13957
21 to 13957.7, inclusive.

22 SEC. 3. *Section 13955.5 is added to the Government Code, to*
23 *read:*

24 *13955.5. Except as provided in Section 13956, a person who*
25 *is a witness of a crime and 18 years of age or older at the time of*
26 *the crime shall be eligible for counseling applicable to a victim of*
27 *a crime.*

28 ~~SEC. 2.~~

29 SEC. 4. Section 13956 of the Government Code is amended
30 to read:

31 13956. Notwithstanding Section 13955, a person shall not be
32 eligible for compensation under the following conditions:

33 (a) An application shall be denied if the board finds that the
34 victim or, if compensation is sought by or on behalf of a derivative
35 victim, either the victim or derivative victim, knowingly and
36 willingly participated in the commission of the crime that resulted
37 in the pecuniary loss for which compensation is being sought
38 pursuant to this chapter. However, this subdivision shall not apply
39 if the injury or death occurred as a direct result of a crime
40 committed in violation of Section 261, 262, or 273.5 of, or a crime

1 of unlawful sexual intercourse with a minor committed in violation
2 of subdivision (d) of Section 261.5 of, the Penal Code.

3 (b) (1) An application shall be denied if the board finds that
4 the victim or, if compensation is sought by, or on behalf of, a
5 derivative victim, either the victim or derivative victim failed to
6 cooperate reasonably with a law enforcement agency in the
7 apprehension and conviction of a criminal committing the crime.
8 However, in determining whether cooperation has been reasonable,
9 the board shall consider the victim's or derivative victim's age,
10 physical condition, and psychological state, cultural or linguistic
11 barriers, any compelling health and safety concerns, including, but
12 not limited to, a reasonable fear of retaliation or harm that would
13 jeopardize the well-being of the victim or the victim's family or
14 the derivative victim or the derivative victim's family, and giving
15 due consideration to the degree of cooperation of which the victim
16 or derivative victim is capable in light of the presence of any of
17 these factors. An application for a claim shall not be denied
18 pursuant to this paragraph in any case in which the victim is eligible
19 for compensation as a minor.

20 (2) An application for a claim based on domestic violence shall
21 not be denied solely because no police report was made by the
22 victim. The board shall adopt guidelines that allow the board to
23 consider and approve applications for assistance based on domestic
24 violence relying upon evidence other than a police report to
25 establish that a domestic violence crime has occurred. Factors
26 evidencing that a domestic violence crime has occurred may
27 include, but are not limited to, medical records documenting
28 injuries consistent with allegations of domestic violence, mental
29 health records, or the fact that the victim has obtained a temporary
30 or permanent restraining order, or all of these.

31 (3) An application for a claim based on human trafficking as
32 defined in Section 236.1 of the Penal Code shall not be denied
33 solely because no police report was made by the victim. The board
34 shall adopt guidelines that allow the board to consider and approve
35 applications for assistance based on human trafficking relying
36 upon evidence other than a police report to establish that a human
37 trafficking crime as defined in Section 236.1 of the Penal Code
38 has occurred. That evidence may include any reliable corroborating
39 information approved by the board, including, but not limited to,
40 the following:

1 (A) A Law Enforcement Agency Endorsement issued pursuant
2 to Section 236.2 of the Penal Code.

3 (B) A human trafficking caseworker, as identified in Section
4 1038.2 of the Evidence Code, has attested by affidavit that the
5 individual was a victim of human trafficking.

6 (4) (A) An application for a claim by a military personnel victim
7 based on a sexual assault by another military personnel shall not
8 be denied solely because it was not reported to a superior officer
9 or law enforcement at the time of the crime.

10 (B) Factors that the board shall consider for purposes of
11 determining if a claim qualifies for compensation include, but are
12 not limited to, the evidence of the following:

13 (i) Restricted or unrestricted reports to a military victim
14 advocate, sexual assault response coordinator, chaplain, attorney,
15 or other military personnel.

16 (ii) Medical or physical evidence consistent with sexual assault.

17 (iii) A written or oral report from military law enforcement or
18 a civilian law enforcement agency concluding that a sexual assault
19 crime was committed against the victim.

20 (iv) A letter or other written statement from a sexual assault
21 counselor, as defined in Section 1035.2 of the Evidence Code,
22 licensed therapist, or mental health counselor, stating that the
23 victim is seeking services related to the allegation of sexual assault.

24 (v) A credible witness to whom the victim disclosed the details
25 that a sexual assault crime occurred.

26 (vi) A restraining order from a military or civilian court against
27 the perpetrator of the sexual assault.

28 (vii) Other behavior by the victim consistent with sexual assault.

29 (C) For purposes of this subdivision, the sexual assault at issue
30 shall have occurred during military service, including deployment.

31 (D) For purposes of this subdivision, the sexual assault may
32 have been committed ~~off base~~ *off base*.

33 (E) For purposes of this subdivision, a “perpetrator” means an
34 individual who is any of the following at the time of the sexual
35 assault:

36 (i) An active duty military personnel from the United States
37 Army, Navy, Marine Corps, Air Force, or Coast Guard.

38 (ii) A civilian employee of any military branch specified in
39 clause (i), military base, or military deployment.

1 (iii) A contractor or agent of a private military or private security
2 company.

3 (iv) A member of the California National Guard.

4 (F) For purposes of this subdivision, “sexual assault” means an
5 offense included in Section 261, 262, 264.1, 286, 288a, or 289 of
6 the Penal Code, as of the date the act that added this paragraph
7 was enacted.

8 (c) An application for compensation may be denied, in whole
9 or in part, if the board finds that denial is appropriate because of
10 the nature of the victim’s or other applicant’s involvement in the
11 events leading to the crime or the involvement of the persons whose
12 injury or death gives rise to the application. In the case of a minor,
13 the board shall consider the minor’s age, physical condition, and
14 psychological state, as well as any compelling health and safety
15 concerns, in determining whether the minor’s application should
16 be denied pursuant to this section. The application of a derivative
17 victim of domestic violence under ~~the age of~~ 18 years of age or a
18 derivative victim of trafficking under 18 years of age may not be
19 denied on the basis of the denial of the victim’s application under
20 this subdivision.

21 (d) (1) Notwithstanding Section 13955, a person who is
22 convicted of a felony shall not be granted compensation until that
23 person has been discharged from probation or has been released
24 from a correctional institution and has been discharged from parole,
25 if any, unless the compensation is solely used to fund mental health
26 counseling. In no case shall compensation be granted to an
27 applicant pursuant to this chapter during any period of time the
28 applicant is held in a correctional institution.

29 (2) A person who has been convicted of a felony may apply for
30 compensation pursuant to this chapter at any time, but the award
31 of that compensation may not be considered until the applicant
32 meets the requirements for compensation set forth in paragraph
33 (1).

34 (3) Applications of victims who are not felons shall receive
35 priority in the award of compensation over an application submitted
36 by a felon who has met the requirements for compensation set
37 forth in paragraph (1).

38 *SEC. 5. Section 13957 of the Government Code is amended to*
39 *read:*

1 13957. (a) The board may grant for pecuniary loss, when the
2 board determines it will best aid the person seeking compensation,
3 as follows:

4 (1) Subject to the limitations set forth in Section 13957.2,
5 reimburse the amount of medical or medical-related expenses
6 incurred by the victim, including, but not limited to, eyeglasses,
7 hearing aids, dentures, or any prosthetic device taken, lost, or
8 destroyed during the commission of the crime, or the use of which
9 became necessary as a direct result of the crime.

10 (2) Subject to the limitations set forth in Section 13957.2,
11 reimburse the amount of outpatient psychiatric, psychological, or
12 other mental health counseling-related expenses incurred by the
13 victim or derivative victim, including peer counseling services
14 provided by a rape crisis center as defined by Section 13837 of
15 the Penal Code, and including family psychiatric, psychological,
16 or mental health counseling for the successful treatment of the
17 victim provided to family members of the victim in the presence
18 of the victim, whether or not the family member relationship
19 existed at the time of the crime, that became necessary as a direct
20 result of the crime, subject to the following conditions:

21 (A) The following persons may be reimbursed for the expense
22 of their outpatient mental health counseling in an amount not to
23 exceed ten thousand dollars (\$10,000):

24 (i) A victim.

25 (ii) A derivative victim who is the surviving parent, sibling,
26 child, spouse, fiancé, or fiancée of a victim of a crime that directly
27 resulted in the death of the victim.

28 (iii) A derivative victim, as described in paragraphs (1) to (4),
29 inclusive, of subdivision (c) of Section 13955, who is the primary
30 caretaker of a minor victim whose claim is not denied or reduced
31 pursuant to Section 13956 in a total amount not to exceed ten
32 thousand dollars (\$10,000) for not more than two derivative
33 victims.

34 (B) The following persons may be reimbursed for the expense
35 of their outpatient mental health counseling in an amount not to
36 exceed five thousand dollars (\$5,000):

37 (i) A derivative victim not eligible for reimbursement pursuant
38 to subparagraph (A), provided that mental health counseling of a
39 derivative victim described in paragraph (5) of subdivision (c) of

1 Section 13955, shall be reimbursed only if that counseling is
2 necessary for the treatment of the victim.

3 (ii) A victim of a crime of unlawful sexual intercourse with a
4 minor committed in violation of subdivision (d) of Section 261.5
5 of the Penal Code. A derivative victim of a crime committed in
6 violation of subdivision (d) of Section 261.5 of the Penal Code
7 shall not be eligible for reimbursement of mental health counseling
8 expenses.

9 (iii) A minor who suffers emotional injury as a direct result of
10 witnessing a violent crime and who is not eligible for
11 reimbursement of the costs of outpatient mental health counseling
12 under any other provision of this chapter. To be eligible for
13 reimbursement under this clause, the minor must have been in
14 close proximity to the victim when he or she witnessed the crime.

15 (C) The board may reimburse a victim or derivative victim for
16 outpatient mental health counseling in excess of that authorized
17 by subparagraph (A) or (B) or for inpatient psychiatric,
18 psychological, or other mental health counseling if the claim is
19 based on dire or exceptional circumstances that require more
20 extensive treatment, as approved by the board.

21 (D) Expenses for psychiatric, psychological, or other mental
22 health counseling-related services may be reimbursed only if the
23 services were provided by either of the following individuals:

24 (i) A person who would have been authorized to provide those
25 services pursuant to former Article 1 (commencing with Section
26 13959) as it read on January 1, 2002.

27 (ii) A person who is licensed by the state to provide those
28 services, or who is properly supervised by a person who is so
29 licensed, subject to the board's approval and subject to the
30 limitations and restrictions the board may impose.

31 (3) Reimburse the expenses of nonmedical remedial care and
32 treatment rendered in accordance with a religious method of healing
33 recognized by state law.

34 (4) Subject to the limitations set forth in Section 13957.5,
35 authorize compensation equal to the loss of income or loss of
36 support, or both, that a victim or derivative victim incurs as a direct
37 result of the victim's or derivative victim's injury or the victim's
38 death. If the victim or derivative victim requests that the board
39 give priority to reimbursement of loss of income or support, the
40 board may not pay medical expenses, or mental health counseling

1 expenses, except upon the request of the victim or derivative victim
2 or after determining that payment of these expenses will not
3 decrease the funds available for payment of loss of income or
4 support.

5 (5) Authorize a cash payment to or on behalf of the victim for
6 job retraining or similar employment-oriented services.

7 (6) Reimburse the claimant for the expense of installing or
8 increasing residential security, not to exceed one thousand dollars
9 (\$1,000). Reimbursement shall be made either upon verification
10 by law enforcement that the security measures are necessary for
11 the personal safety of the claimant or verification by a mental
12 health treatment provider that the security measures are necessary
13 for the emotional well-being of the claimant. For purposes of this
14 paragraph, a claimant is the crime victim, or, if the victim is
15 deceased, a person who resided with the deceased at the time of
16 the crime. Installing or increasing residential security may include,
17 but need not be limited to, both of the following:

18 (A) Home security device or system.

19 (B) Replacing or increasing the number of locks.

20 (7) Reimburse the expense of renovating or retrofitting a
21 victim's residence or a vehicle, or both, to make the residence, the
22 vehicle, or both, accessible or the vehicle operational by a victim
23 upon verification that the expense is medically necessary for a
24 victim who is permanently disabled as a direct result of the crime,
25 whether the disability is partial or total.

26 (8) (A) Authorize a cash payment or reimbursement not to
27 exceed two thousand dollars (\$2,000) to a victim for expenses
28 incurred in relocating, if the expenses are determined by law
29 enforcement to be necessary for the personal safety of the victim
30 or by a mental health treatment provider to be necessary for the
31 emotional well-being of the victim.

32 (B) The cash payment or reimbursement made under this
33 paragraph shall only be awarded to one claimant per crime giving
34 rise to the relocation. The board may authorize more than one
35 relocation per crime if necessary for the personal safety or
36 emotional well-being of the claimant. However, the total cash
37 payment or reimbursement for all relocations due to the same crime
38 shall not exceed two thousand dollars (\$2,000). For purposes of
39 this paragraph a claimant is the crime victim, or, if the victim is

1 deceased, a person who resided with the deceased at the time of
2 the crime.

3 (C) The board may, under compelling circumstances, award a
4 second cash payment or reimbursement to a victim for another
5 crime if both of the following conditions are met:

6 (i) The crime occurs more than three years from the date of the
7 crime giving rise to the initial relocation cash payment or
8 reimbursement.

9 (ii) The crime does not involve the same offender.

10 (D) When a relocation payment or reimbursement is provided
11 to a victim of sexual assault or domestic violence and the identity
12 of the offender is known to the victim, the victim shall agree not
13 to inform the offender of the location of the victim's new residence
14 and not to allow the offender on the premises at any time, or shall
15 agree to seek a restraining order against the offender.

16 (E) Notwithstanding subparagraphs (A) and (B), the board may
17 increase the cash payment or reimbursement for expenses incurred
18 in relocating to an amount greater than two thousand dollars
19 (\$2,000), if the board finds this amount is appropriate due to the
20 unusual, dire, or exceptional circumstances of a particular claim.

21 (9) When a victim dies as a result of a crime, the board may
22 reimburse any individual who voluntarily, and without anticipation
23 of personal gain, pays or assumes the obligation to pay any of the
24 following expenses:

25 (A) The medical expenses incurred as a direct result of the crime
26 in an amount not to exceed the rates or limitations established by
27 the board.

28 (B) The funeral and burial expenses incurred as a direct result
29 of the crime, ~~not to exceed~~ *crime in the amount of* seven thousand
30 five hundred dollars (\$7,500).

31 (10) When the crime occurs in a residence, the board may
32 reimburse any individual who voluntarily, and without anticipation
33 of personal gain, pays or assumes the obligation to pay the
34 reasonable costs to clean the scene of the crime in an amount not
35 to exceed one thousand dollars (\$1,000). Services reimbursed
36 pursuant to this subdivision shall be performed by persons
37 registered with the State Department of Public Health as trauma
38 scene waste practitioners in accordance with Chapter 9.5
39 (commencing with Section 118321) of Part 14 of Division 104 of
40 the Health and Safety Code.

(11) When the crime is a violation of Section 600.2 or 600.5 of the Penal Code, the board may reimburse the expense of veterinary services, replacement costs, or other reasonable expenses, as ordered by the court pursuant to Section 600.2 or 600.5 of the Penal Code, in an amount not to exceed ten thousand dollars (\$10,000).

(b) The total award to or on behalf of each victim or derivative victim may not exceed thirty-five thousand dollars (\$35,000), except that this amount may be increased to seventy thousand dollars (\$70,000) if federal funds for that increase are available.

SEC. 6. Section 13958 of the Government Code is amended to read:

13958. The board shall approve or deny applications, based on recommendations of the board staff, ~~within an average of 90 calendar days and no later than 180 calendar days~~ of acceptance by the board or victim center.

(a) If the board does not meet the ~~90-day average standard requirement~~ prescribed in this subdivision, the board shall, thereafter, report to the Legislature, on a quarterly basis, its progress and its current average time of processing applications. These quarterly reports shall continue until the board meets the ~~90-day average standard requirement~~ for two consecutive quarters.

(b) If the board fails to approve or deny an individual application ~~within 180~~ 90 days of the date it is accepted, pursuant to this subdivision, the board shall advise the applicant and his or her representative, in writing, of the reason for the failure to approve or deny the application.

SEC. 7. Section 13959 of the Government Code is amended to read:

13959. (a) The board shall grant a hearing to an applicant who believes he or she is entitled to compensation pursuant to this chapter to contest a staff recommendation to deny compensation in whole or in part.

(b) The board shall notify the applicant not less than 10 days prior to the date of the hearing. Notwithstanding Section 11123, if the application that the board is considering involves either a crime against a minor, a crime of sexual assault, or a crime of domestic violence, the board may exclude from the hearing all persons other than board members and members of its staff, the applicant for benefits, a minor applicant's parents or guardians,

1 the applicant's representative, witnesses, and other persons of the
2 applicant's choice to provide assistance to the applicant during the
3 hearing. However, the board shall not exclude persons from the
4 hearing if the applicant or applicant's representative requests that
5 the hearing be open to the public.

6 (c) At the hearing, the person seeking compensation shall have
7 the burden of establishing, by a preponderance of the evidence,
8 the elements for eligibility under Section 13955.

9 (d) Except as otherwise provided by law, in making
10 determinations of eligibility for compensation and in deciding
11 upon the amount of compensation, the board shall apply the law
12 in effect as of the date an application was submitted.

13 (e) (1) The hearing shall be informal and need not be conducted
14 according to the technical rules relating to evidence and witnesses.
15 The board may rely on any relevant evidence if it is the sort of
16 evidence on which responsible persons are accustomed to rely in
17 the conduct of serious affairs, regardless of the existence of a
18 common law or statutory rule that might make improper the
19 admission of the evidence over objection in a civil action. The
20 board may rely on written reports prepared for the board, or other
21 information received, from public agencies responsible for
22 investigating the crime. If the applicant or the applicant's
23 representative chooses not to appear at the hearing, the board may
24 act solely upon the application for compensation, the staff's report,
25 and other evidence that appears in the record.

26 (2) *The board shall allow an animal to accompany and support*
27 *a witness while testifying at a hearing.*

28 (f) Hearings shall be held in various locations with the frequency
29 necessary to provide for the speedy adjudication of the applications.
30 If the applicant's presence is required at the hearing, the board
31 shall schedule the applicant's hearing in as convenient a location
32 as possible.

33 (g) The board may delegate the hearing of applications to
34 hearing officers.

35 (h) The decisions of the board shall be in writing. Copies of the
36 decisions shall be delivered to the applicant or to his or her
37 representative personally or sent to him or her by mail.

38 (i) The board may order a reconsideration of all or part of a
39 decision on written request of the applicant. The board shall not
40 grant more than one request for reconsideration with respect to

1 any one decision on an application for compensation. The board
2 shall not consider any request for reconsideration filed with the
3 board more than 30 calendar days after the personal delivery or
4 60 calendar days after the mailing of the original decision.

5 (j) The board may order a reconsideration of all or part of a
6 decision on its own motion, at its discretion, at any time.

7 *SEC. 8. Section 1050 of the Penal Code is amended to read:*

8 1050. (a) The welfare of the people of the State of California
9 requires that all proceedings in criminal cases shall be set for trial
10 and heard and determined at the earliest possible time. To this end,
11 the Legislature finds that the criminal courts are becoming
12 increasingly congested with resulting adverse consequences to the
13 welfare of the people and the defendant. Excessive continuances
14 contribute substantially to this congestion and cause substantial
15 hardship to victims and other witnesses. Continuances also lead
16 to longer periods of presentence confinement for those defendants
17 in custody and the concomitant overcrowding and increased
18 expenses of local jails. It is therefore recognized that the people,
19 the defendant, and the victims and other witnesses have the right
20 to an expeditious disposition, and to that end it shall be the duty
21 of all courts and judicial officers and of all counsel, both for the
22 prosecution and the defense, to expedite these proceedings to the
23 greatest degree that is consistent with the ends of justice. In
24 accordance with this policy, criminal cases shall be given
25 precedence over, and set for trial and heard without regard to the
26 pendency of, any civil matters or proceedings. In further accordance
27 with this policy, death penalty cases in which both the prosecution
28 and the defense have informed the court that they are prepared to
29 proceed to trial shall be given precedence over, and set for trial
30 and heard without regard to the pendency of, other criminal cases
31 and any civil matters or proceedings, unless the court finds in the
32 interest of justice that it is not appropriate.

33 (b) To continue any hearing in a criminal proceeding, including
34 the trial, (1) a written notice shall be filed and served on all parties
35 to the proceeding at least two court days before the hearing sought
36 to be continued, together with affidavits or declarations detailing
37 specific facts showing that a continuance is necessary and (2)
38 within two court days of learning that he or she has a conflict in
39 the scheduling of any court hearing, including a trial, an attorney
40 shall notify the calendar clerk of each court involved, in writing,

1 indicating which hearing was set first. A party shall not be deemed
2 to have been served within the meaning of this section until that
3 party actually has received a copy of the documents to be served,
4 unless the party, after receiving actual notice of the request for
5 continuance, waives the right to have the documents served in a
6 timely manner. Regardless of the proponent of the motion, the
7 prosecuting attorney shall notify the people's witnesses and the
8 defense attorney shall notify the defense's witnesses of the notice
9 of motion, the date of the hearing, and the witnesses' right to be
10 heard by the court.

11 (c) Notwithstanding subdivision (b), a party may make a motion
12 for a continuance without complying with the requirements of that
13 subdivision. However, unless the moving party shows good cause
14 for the failure to comply with those requirements, the court may
15 impose sanctions as provided in Section 1050.5.

16 (d) When a party makes a motion for a continuance without
17 complying with the requirements of subdivision (b), the court shall
18 hold a hearing on whether there is good cause for the failure to
19 comply with those requirements. At the conclusion of the hearing,
20 the court shall make a finding whether good cause has been shown
21 and, if it finds that there is good cause, shall state on the record
22 the facts proved that justify its finding. A statement of the finding
23 and a statement of facts proved shall be entered in the minutes. If
24 the moving party is unable to show good cause for the failure to
25 give notice, the motion for continuance shall not be granted.

26 (e) Continuances shall be granted only upon a showing of good
27 cause. Neither the convenience of the parties nor a stipulation of
28 the parties is in and of itself good cause.

29 (f) At the conclusion of the motion for continuance, the court
30 shall make a finding whether good cause has been shown and, if
31 it finds that there is good cause, shall state on the record the facts
32 proved that justify its finding. A statement of facts proved shall
33 be entered in the minutes.

34 (g) (1) When deciding whether or not good cause for a
35 continuance has been shown, the court shall consider the general
36 convenience and prior commitments of all witnesses, including
37 peace officers. Both the general convenience and prior
38 commitments of each witness also shall be considered in selecting
39 a continuance date if the motion is granted. The facts as to

1 inconvenience or prior commitments may be offered by the witness
2 or by a party to the case.

3 (2) For purposes of this section, “good cause” includes, but is
4 not limited to, those cases involving murder, as defined in
5 subdivision (a) of Section 187, allegations that stalking, as defined
6 in Section 646.9, a violation of one or more of the sections
7 specified in subdivision (a) of Section 11165.1 or Section 11165.6,
8 or domestic violence as defined in Section 13700, or a case being
9 handled in the Career Criminal Prosecution Program pursuant to
10 Sections 999b through 999h, or a hate crime, as defined in Title
11 11.6 (commencing with Section 422.6) of Part 1, has occurred and
12 the prosecuting attorney assigned to the case has another trial,
13 preliminary hearing, or motion to suppress in progress in that court
14 or another court. A continuance under this paragraph shall be
15 limited to a maximum of 10 additional court days.

16 (3) Only one continuance per case may be granted to the people
17 under this subdivision for cases involving stalking, hate crimes,
18 or cases handled under the Career Criminal Prosecution Program.
19 Any continuance granted to the people in a case involving stalking
20 or handled under the Career Criminal Prosecution Program shall
21 be for the shortest time possible, not to exceed 10 court days.

22 (4) *For purposes of this section, “good cause” shall be deemed*
23 *to exist when a witness, who is the victim of the charged crime and*
24 *has previously been the victim of elder abuse, as defined in Section*
25 *368, or a crime described in Section 290, cannot be present due*
26 *to psychological or emotional distress resulting from that prior*
27 *victimization.*

28 (h) Upon a showing that the attorney of record at the time of
29 the defendant’s first appearance in the superior court on an
30 indictment or information is a Member of the Legislature of this
31 state and that the Legislature is in session or that a legislative
32 interim committee of which the attorney is a duly appointed
33 member is meeting or is to meet within the next seven days, the
34 defendant shall be entitled to a reasonable continuance not to
35 exceed 30 days.

36 (i) A continuance shall be granted only for that period of time
37 shown to be necessary by the evidence considered at the hearing
38 on the motion. Whenever any continuance is granted, the court
39 shall state on the record the facts proved that justify the length of
40 the continuance, and those facts shall be entered in the minutes.

1 (j) Whenever it shall appear that any court may be required,
2 because of the condition of its calendar, to dismiss an action
3 pursuant to Section 1382, the court must immediately notify the
4 Chair of the Judicial Council.

5 (k) This section shall not apply when the preliminary
6 examination is set on a date less than 10 court days from the date
7 of the defendant's arraignment on the complaint, and the
8 prosecution or the defendant moves to continue the preliminary
9 examination to a date not more than 10 court days from the date
10 of the defendant's arraignment on the complaint.

11 (l) This section is directory only and does not mandate dismissal
12 of an action by its terms.

13 *SEC. 9. Section 1202.4 of the Penal Code is amended to read:*

14 1202.4. (a) (1) It is the intent of the Legislature that a victim
15 of crime who incurs an economic loss as a result of the commission
16 of a crime shall receive restitution directly from a defendant
17 convicted of that crime.

18 (2) Upon a person being convicted of a crime in the State of
19 California, the court shall order the defendant to pay a fine in the
20 form of a penalty assessment in accordance with Section 1464.

21 (3) The court, in addition to any other penalty provided or
22 imposed under the law, shall order the defendant to pay both of
23 the following:

24 (A) A restitution fine in accordance with subdivision (b).

25 (B) Restitution to the victim or victims, if any, in accordance
26 with subdivision (f), which shall be enforceable as if the order
27 were a civil judgment.

28 (b) In every case where a person is convicted of a crime, the
29 court shall impose a separate and additional restitution fine, unless
30 it finds compelling and extraordinary reasons for not doing so and
31 states those reasons on the record.

32 (1) The restitution fine shall be set at the discretion of the court
33 and commensurate with the seriousness of the offense. If the person
34 is convicted of a felony, the fine shall not be less than two hundred
35 forty dollars (\$240) starting on January 1, 2012, two hundred eighty
36 dollars (\$280) starting on January 1, 2013, and three hundred
37 dollars (\$300) starting on January 1, 2014, and not more than ten
38 thousand dollars (\$10,000). If the person is convicted of a
39 misdemeanor, the fine shall not be less than one hundred twenty
40 dollars (\$120) starting on January 1, 2012, one hundred forty

1 dollars (\$140) starting on January 1, 2013, and one hundred fifty
2 dollars (\$150) starting on January 1, 2014, and not more than one
3 thousand dollars (\$1,000).

4 (2) In setting a felony restitution fine, the court may determine
5 the amount of the fine as the product of the minimum fine pursuant
6 to paragraph (1) multiplied by the number of years of imprisonment
7 the defendant is ordered to serve, multiplied by the number of
8 felony counts of which the defendant is convicted.

9 (c) The court shall impose the restitution fine unless it finds
10 compelling and extraordinary reasons for not doing so and states
11 those reasons on the record. A defendant's inability to pay shall
12 not be considered a compelling and extraordinary reason not to
13 impose a restitution fine. Inability to pay may be considered only
14 in increasing the amount of the restitution fine in excess of the
15 minimum fine pursuant to paragraph (1) of subdivision (b). The
16 court may specify that funds confiscated at the time of the
17 defendant's arrest, except for funds confiscated pursuant to Section
18 11469 of the Health and Safety Code, be applied to the restitution
19 fine if the funds are not exempt for spousal or child support or
20 subject to any other legal exemption.

21 (d) In setting the amount of the fine pursuant to subdivision (b)
22 in excess of the minimum fine pursuant to paragraph (1) of
23 subdivision (b), the court shall consider any relevant factors,
24 including, but not limited to, the defendant's inability to pay, the
25 seriousness and gravity of the offense and the circumstances of its
26 commission, any economic gain derived by the defendant as a
27 result of the crime, the extent to which any other person suffered
28 losses as a result of the crime, and the number of victims involved
29 in the crime. Those losses may include pecuniary losses to the
30 victim or his or her dependents as well as intangible losses, such
31 as psychological harm caused by the crime. Consideration of a
32 defendant's inability to pay may include his or her future earning
33 capacity. A defendant shall bear the burden of demonstrating his
34 or her inability to pay. Express findings by the court as to the
35 factors bearing on the amount of the fine shall not be required. A
36 separate hearing for the fine shall not be required.

37 (e) The restitution fine shall not be subject to penalty
38 assessments authorized in Section 1464 or Chapter 12
39 (commencing with Section 76000) of Title 8 of the Government

1 Code, or the state surcharge authorized in Section 1465.7, and
2 shall be deposited in the Restitution Fund in the State Treasury.

3 (f) Except as provided in subdivisions (q) and (r), in every case
4 in which a victim has suffered economic loss as a result of the
5 defendant's conduct, the court shall require that the defendant
6 make restitution to the victim or victims in an amount established
7 by court order, based on the amount of loss claimed by the victim
8 or victims or any other showing to the court. If the amount of loss
9 cannot be ascertained at the time of sentencing, the restitution
10 order shall include a provision that the amount shall be determined
11 at the direction of the court. The court shall order full restitution
12 unless it finds compelling and extraordinary reasons for not doing
13 so and states them on the record. The court may specify that funds
14 confiscated at the time of the defendant's arrest, except for funds
15 confiscated pursuant to Section 11469 of the Health and Safety
16 Code, be applied to the restitution order if the funds are not exempt
17 for spousal or child support or subject to any other legal exemption.

18 (1) The defendant has the right to a hearing before a judge to
19 dispute the determination of the amount of restitution. The court
20 may modify the amount, on its own motion or on the motion of
21 the district attorney, the victim or victims, or the defendant. If a
22 motion is made for modification of a restitution order, the victim
23 shall be notified of that motion at least 10 days prior to the
24 proceeding held to decide the motion. *A witness at a restitution*
25 *hearing or modification hearing described in this paragraph may*
26 *testify by live, two-way audio and video transmission.*

27 (2) Determination of the amount of restitution ordered pursuant
28 to this subdivision shall not be affected by the indemnification or
29 subrogation rights of a third party. Restitution ordered pursuant to
30 this subdivision shall be ordered to be deposited to the Restitution
31 Fund to the extent that the victim, as defined in subdivision (k),
32 has received assistance from the California Victim Compensation
33 and Government Claims Board pursuant to Chapter 5 (commencing
34 with Section 13950) of Part 4 of Division 3 of Title 2 of the
35 Government Code.

36 (3) To the extent possible, the restitution order shall be prepared
37 by the sentencing court, shall identify each victim and each loss
38 to which it pertains, and shall be of a dollar amount that is sufficient
39 to fully reimburse the victim or victims for every determined

1 economic loss incurred as the result of the defendant's criminal
2 conduct, including, but not limited to, all of the following:

3 (A) Full or partial payment for the value of stolen or damaged
4 property. The value of stolen or damaged property shall be the
5 replacement cost of like property, or the actual cost of repairing
6 the property when repair is possible.

7 (B) Medical expenses.

8 (C) Mental health counseling expenses.

9 (D) Wages or profits lost due to injury incurred by the victim,
10 and if the victim is a minor, wages or profits lost by the minor's
11 parent, parents, guardian, or guardians, while caring for the injured
12 minor. Lost wages shall include commission income as well as
13 base wages. Commission income shall be established by evidence
14 of commission income during the 12-month period prior to the
15 date of the crime for which restitution is being ordered, unless
16 good cause for a shorter time period is shown.

17 (E) Wages or profits lost by the victim, and if the victim is a
18 minor, wages or profits lost by the minor's parent, parents,
19 guardian, or guardians, due to time spent as a witness or in assisting
20 the police or prosecution. Lost wages shall include commission
21 income as well as base wages. Commission income shall be
22 established by evidence of commission income during the
23 12-month period prior to the date of the crime for which restitution
24 is being ordered, unless good cause for a shorter time period is
25 shown.

26 (F) Noneconomic losses, including, but not limited to,
27 psychological harm, for felony violations of Section 288.

28 (G) Interest, at the rate of 10 percent per annum, that accrues
29 as of the date of sentencing or loss, as determined by the court.

30 (H) Actual and reasonable attorney's fees and other costs of
31 collection accrued by a private entity on behalf of the victim.

32 (I) Expenses incurred by an adult victim in relocating away
33 from the defendant, including, but not limited to, deposits for
34 utilities and telephone service, deposits for rental housing,
35 temporary lodging and food expenses, clothing, and personal items.
36 Expenses incurred pursuant to this section shall be verified by law
37 enforcement to be necessary for the personal safety of the victim
38 or by a mental health treatment provider to be necessary for the
39 emotional well-being of the victim.

1 (J) Expenses to install or increase residential security incurred
2 related to a violent felony, as defined in subdivision (c) of Section
3 667.5, including, but not limited to, a home security device or
4 system, or replacing or increasing the number of locks.

5 (K) Expenses to retrofit a residence or vehicle, or both, to make
6 the residence accessible to or the vehicle operational by the victim,
7 if the victim is permanently disabled, whether the disability is
8 partial or total, as a direct result of the crime.

9 (L) Expenses for a period of time reasonably necessary to make
10 the victim whole, for the costs to monitor the credit report of, and
11 for the costs to repair the credit of, a victim of identity theft, as
12 defined in Section 530.5.

13 (4) (A) If, as a result of the defendant's conduct, the Restitution
14 Fund has provided assistance to or on behalf of a victim or
15 derivative victim pursuant to Chapter 5 (commencing with Section
16 13950) of Part 4 of Division 3 of Title 2 of the Government Code,
17 the amount of assistance provided shall be presumed to be a direct
18 result of the defendant's criminal conduct and shall be included
19 in the amount of the restitution ordered.

20 (B) The amount of assistance provided by the Restitution Fund
21 shall be established by copies of bills submitted to the California
22 Victim Compensation and Government Claims Board reflecting
23 the amount paid by the board and whether the services for which
24 payment was made were for medical or dental expenses, funeral
25 or burial expenses, mental health counseling, wage or support
26 losses, or rehabilitation. Certified copies of these bills provided
27 by the board and redacted to protect the privacy and safety of the
28 victim or any legal privilege, together with a statement made under
29 penalty of perjury by the custodian of records that those bills were
30 submitted to and were paid by the board, shall be sufficient to meet
31 this requirement.

32 (C) If the defendant offers evidence to rebut the presumption
33 established by this paragraph, the court may release additional
34 information contained in the records of the board to the defendant
35 only after reviewing that information in camera and finding that
36 the information is necessary for the defendant to dispute the amount
37 of the restitution order.

38 (5) Except as provided in paragraph (6), in any case in which
39 an order may be entered pursuant to this subdivision, the defendant
40 shall prepare and file a disclosure identifying all assets, income,

1 and liabilities in which the defendant held or controlled a present
2 or future interest as of the date of the defendant's arrest for the
3 crime for which restitution may be ordered. The financial disclosure
4 statements shall be made available to the victim and the board
5 pursuant to Section 1214. The disclosure shall be signed by the
6 defendant upon a form approved or adopted by the Judicial Council
7 for the purpose of facilitating the disclosure. A defendant who
8 willfully states as true a material matter that he or she knows to
9 be false on the disclosure required by this subdivision is guilty of
10 a misdemeanor, unless this conduct is punishable as perjury or
11 another provision of law provides for a greater penalty.

12 (6) A defendant who fails to file the financial disclosure required
13 in paragraph (5), but who has filed a financial affidavit or financial
14 information pursuant to subdivision (c) of Section 987, shall be
15 deemed to have waived the confidentiality of that affidavit or
16 financial information as to a victim in whose favor the order of
17 restitution is entered pursuant to subdivision (f). The affidavit or
18 information shall serve in lieu of the financial disclosure required
19 in paragraph (5), and paragraphs (7) to (10), inclusive, shall not
20 apply.

21 (7) Except as provided in paragraph (6), the defendant shall file
22 the disclosure with the clerk of the court no later than the date set
23 for the defendant's sentencing, unless otherwise directed by the
24 court. The disclosure may be inspected or copied as provided by
25 subdivision (b), (c), or (d) of Section 1203.05.

26 (8) In its discretion, the court may relieve the defendant of the
27 duty under paragraph (7) of filing with the clerk by requiring that
28 the defendant's disclosure be submitted as an attachment to, and
29 be available to, those authorized to receive the following:

30 (A) A report submitted pursuant to subparagraph (C) of
31 paragraph (2) of subdivision (b) of Section 1203 or subdivision
32 (g) of Section 1203.

33 (B) A stipulation submitted pursuant to paragraph (4) of
34 subdivision (b) of Section 1203.

35 (C) A report by the probation officer, or information submitted
36 by the defendant applying for a conditional sentence pursuant to
37 subdivision (d) of Section 1203.

38 (9) The court may consider a defendant's unreasonable failure
39 to make a complete disclosure pursuant to paragraph (5) as any of
40 the following:

1 (A) A circumstance in aggravation of the crime in imposing a
2 term under subdivision (b) of Section 1170.

3 (B) A factor indicating that the interests of justice would not be
4 served by admitting the defendant to probation under Section 1203.

5 (C) A factor indicating that the interests of justice would not be
6 served by conditionally sentencing the defendant under Section
7 1203.

8 (D) A factor indicating that the interests of justice would not
9 be served by imposing less than the maximum fine and sentence
10 fixed by law for the case.

11 (10) A defendant's failure or refusal to make the required
12 disclosure pursuant to paragraph (5) shall not delay entry of an
13 order of restitution or pronouncement of sentence. In appropriate
14 cases, the court may do any of the following:

15 (A) Require the defendant to be examined by the district attorney
16 pursuant to subdivision (h).

17 (B) If sentencing the defendant under Section 1170, provide
18 that the victim shall receive a copy of the portion of the probation
19 report filed pursuant to Section 1203.10 concerning the defendant's
20 employment, occupation, finances, and liabilities.

21 (C) If sentencing the defendant under Section 1203, set a date
22 and place for submission of the disclosure required by paragraph
23 (5) as a condition of probation or suspended sentence.

24 (11) If a defendant has any remaining unpaid balance on a
25 restitution order or fine 120 days prior to his or her scheduled
26 release from probation or 120 days prior to his or her completion
27 of a conditional sentence, the defendant shall prepare and file a
28 new and updated financial disclosure identifying all assets, income,
29 and liabilities in which the defendant holds or controls or has held
30 or controlled a present or future interest during the defendant's
31 period of probation or conditional sentence. The financial
32 disclosure shall be made available to the victim and the board
33 pursuant to Section 1214. The disclosure shall be signed and
34 prepared by the defendant on the same form as described in
35 paragraph (5). A defendant who willfully states as true a material
36 matter that he or she knows to be false on the disclosure required
37 by this subdivision is guilty of a misdemeanor, unless this conduct
38 is punishable as perjury or another provision of law provides for
39 a greater penalty. The financial disclosure required by this
40 paragraph shall be filed with the clerk of the court no later than

1 90 days prior to the defendant's scheduled release from probation
2 or completion of the defendant's conditional sentence.

3 (12) In cases where an employer is convicted of a crime against
4 an employee, a payment to the employee or the employee's
5 dependent that is made by the employer's workers' compensation
6 insurance carrier shall not be used to offset the amount of the
7 restitution order unless the court finds that the defendant
8 substantially met the obligation to pay premiums for that insurance
9 coverage.

10 (g) The court shall order full restitution unless it finds
11 compelling and extraordinary reasons for not doing so and states
12 those reasons on the record. A defendant's inability to pay shall
13 not be considered a compelling and extraordinary reason not to
14 impose a restitution order, nor shall inability to pay be a
15 consideration in determining the amount of a restitution order.

16 (h) The district attorney may request an order of examination
17 pursuant to the procedures specified in Article 2 (commencing
18 with Section 708.110) of Chapter 6 of Division 2 of Title 9 of Part
19 2 of the Code of Civil Procedure, in order to determine the
20 defendant's financial assets for purposes of collecting on the
21 restitution order.

22 (i) A restitution order imposed pursuant to subdivision (f) shall
23 be enforceable as if the order were a civil judgment.

24 (j) The making of a restitution order pursuant to subdivision (f)
25 shall not affect the right of a victim to recovery from the Restitution
26 Fund as otherwise provided by law, except to the extent that
27 restitution is actually collected pursuant to the order. Restitution
28 collected pursuant to this subdivision shall be credited to any other
29 judgments for the same losses obtained against the defendant
30 arising out of the crime for which the defendant was convicted.

31 (k) For purposes of this section, "victim" shall include all of
32 the following:

33 (1) The immediate surviving family of the actual victim.

34 (2) A corporation, business trust, estate, trust, partnership,
35 association, joint venture, government, governmental subdivision,
36 agency, or instrumentality, or any other legal or commercial entity
37 when that entity is a direct victim of a crime.

38 (3) A person who has sustained economic loss as the result of
39 a crime and who satisfies any of the following conditions:

1 (A) At the time of the crime was the parent, grandparent, sibling,
2 spouse, child, or grandchild of the victim.

3 (B) At the time of the crime was living in the household of the
4 victim.

5 (C) At the time of the crime was a person who had previously
6 lived in the household of the victim for a period of not less than
7 two years in a relationship substantially similar to a relationship
8 listed in subparagraph (A).

9 (D) Is another family member of the victim, including, but not
10 limited to, the victim's fiancé or fiancée, and who witnessed the
11 crime.

12 (E) Is the primary caretaker of a minor victim.

13 (4) A person who is eligible to receive assistance from the
14 Restitution Fund pursuant to Chapter 5 (commencing with Section
15 13950) of Part 4 of Division 3 of Title 2 of the Government Code.

16 (5) A governmental entity that is responsible for repairing,
17 replacing, or restoring public or privately owned property that has
18 been defaced with graffiti or other inscribed material, as defined
19 in subdivision (e) of Section 594, and that has sustained an
20 economic loss as the result of a violation of Section 594, 594.3,
21 594.4, 640.5, 640.6, or 640.7 of the Penal Code.

22 (I) At its discretion, the board of supervisors of a county may
23 impose a fee to cover the actual administrative cost of collecting
24 the restitution fine, not to exceed 10 percent of the amount ordered
25 to be paid, to be added to the restitution fine and included in the
26 order of the court, the proceeds of which shall be deposited in the
27 general fund of the county.

28 (m) In every case in which the defendant is granted probation,
29 the court shall make the payment of restitution fines and orders
30 imposed pursuant to this section a condition of probation. Any
31 portion of a restitution order that remains unsatisfied after a
32 defendant is no longer on probation shall continue to be enforceable
33 by a victim pursuant to Section 1214 until the obligation is
34 satisfied.

35 (n) If the court finds and states on the record compelling and
36 extraordinary reasons why a restitution fine or full restitution order
37 should not be required, the court shall order, as a condition of
38 probation, that the defendant perform specified community service,
39 unless it finds and states on the record compelling and
40 extraordinary reasons not to require community service in addition

1 to the finding that restitution should not be required. Upon
2 revocation of probation, the court shall impose restitution pursuant
3 to this section.

4 (o) The provisions of Section 13963 of the Government Code
5 shall apply to restitution imposed pursuant to this section.

6 (p) The court clerk shall notify the California Victim
7 Compensation and Government Claims Board within 90 days of
8 an order of restitution being imposed if the defendant is ordered
9 to pay restitution to the board due to the victim receiving
10 compensation from the Restitution Fund. Notification shall be
11 accomplished by mailing a copy of the court order to the board,
12 which may be done periodically by bulk mail or email.

13 (q) Upon conviction for a violation of Section 236.1, the court
14 shall, in addition to any other penalty or restitution, order the
15 defendant to pay restitution to the victim in a case in which a victim
16 has suffered economic loss as a result of the defendant's conduct.
17 The court shall require that the defendant make restitution to the
18 victim or victims in an amount established by court order, based
19 on the amount of loss claimed by the victim or victims or another
20 showing to the court. In determining restitution pursuant to this
21 section, the court shall base its order upon the greater of the
22 following: the gross value of the victim's labor or services based
23 upon the comparable value of similar services in the labor market
24 in which the offense occurred, or the value of the victim's labor
25 as guaranteed under California law, or the actual income derived
26 by the defendant from the victim's labor or services or any other
27 appropriate means to provide reparations to the victim.

28 (r) (1) In addition to any other penalty or fine, the court shall
29 order a person who has been convicted of a violation of Section
30 350, 653h, 653s, 653u, 653w, or 653aa that involves a recording
31 or audiovisual work to make restitution to an owner or lawful
32 producer, or trade association acting on behalf of the owner or
33 lawful producer, of a phonograph record, disc, wire, tape, film, or
34 other device or article from which sounds or visual images are
35 derived that suffered economic loss resulting from the violation.
36 The order of restitution shall be based on the aggregate wholesale
37 value of lawfully manufactured and authorized devices or articles
38 from which sounds or visual images are devised corresponding to
39 the number of nonconforming devices or articles involved in the
40 offense, unless a higher value can be proved in the case of (A) an

1 unreleased audio work, or (B) an audiovisual work that, at the time
2 of unauthorized distribution, has not been made available in copies
3 for sale to the general public in the United States on a digital
4 versatile disc. For purposes of this subdivision, possession of
5 nonconforming devices or articles intended for sale constitutes
6 actual economic loss to an owner or lawful producer in the form
7 of displaced legitimate wholesale purchases. The order of
8 restitution shall also include reasonable costs incurred as a result
9 of an investigation of the violation undertaken by the owner, lawful
10 producer, or trade association acting on behalf of the owner or
11 lawful producer. “Aggregate wholesale value” means the average
12 wholesale value of lawfully manufactured and authorized sound
13 or audiovisual recordings. Proof of the specific wholesale value
14 of each nonconforming device or article is not required.

15 (2) As used in this subdivision, “audiovisual work” and
16 “recording” shall have the same meaning as in Section 653w.

17 ~~SEC. 3.~~

18 *SEC. 10.* Section 1203.4 of the Penal Code is amended to read:

19 1203.4. (a) (1) In any case in which a defendant has fulfilled
20 the conditions of probation for the entire period of probation, or
21 has been discharged prior to the termination of the period of
22 probation, or in any other case in which a court, in its discretion
23 and the interests of justice, determines that a defendant should be
24 granted the relief available under this section, the defendant shall,
25 at any time after the termination of the period of probation, if he
26 or she is not then serving a sentence for any offense, on probation
27 for any offense, or charged with the commission of any offense,
28 be permitted by the court to withdraw his or her plea of guilty or
29 plea of nolo contendere and enter a plea of not guilty; or, if he or
30 she has been convicted after a plea of not guilty, the court shall
31 set aside the verdict of guilty; and, in either case, the court shall
32 thereupon dismiss the accusations or information against the
33 defendant and except as noted below, he or she shall thereafter be
34 released from all penalties and disabilities resulting from the
35 offense of which he or she has been convicted, except as provided
36 in Section 13555 of the Vehicle Code. The probationer shall be
37 informed, in his or her probation papers, of this right and privilege
38 and his or her right, if any, to petition for a certificate of
39 rehabilitation and pardon. The probationer may make the
40 application and change of plea in person or by attorney, or by the

1 probation officer authorized in writing. However, in any subsequent
2 prosecution of the defendant for any other offense, the prior
3 conviction may be pleaded and proved and shall have the same
4 effect as if probation had not been granted or the accusation or
5 information dismissed. The order shall state, and the probationer
6 shall be informed, that the order does not relieve him or her of the
7 obligation to disclose the conviction in response to any direct
8 question contained in any questionnaire or application for public
9 office, for licensure by any state or local agency, or for contracting
10 with the California State Lottery Commission.

11 (2) Dismissal of an accusation or information pursuant to this
12 section does not permit a person to own, possess, or have in his or
13 her custody or control any firearm or prevent his or her conviction
14 under Chapter 2 (commencing with Section 29800) of Division 9
15 of Title 4 of Part 6.

16 (3) Dismissal of an accusation or information underlying a
17 conviction pursuant to this section does not permit a person
18 prohibited from holding public office as a result of that conviction
19 to hold public office.

20 (4) Dismissal of an accusation or information underlying a
21 conviction pursuant to this section does not relieve a person from
22 paying a restitution fine imposed pursuant to subdivision (b) of
23 Section 1202.4 or direct restitution imposed pursuant to subdivision
24 (f) of Section 1202.4.

25 (5) This subdivision shall apply to all applications for relief
26 under this section which are filed on or after November 23, 1970.

27 (b) Subdivision (a) of this section does not apply to any
28 misdemeanor that is within the provisions of Section 42002.1 of
29 the Vehicle Code, to any violation of subdivision (c) of Section
30 286, Section 288, subdivision (c) of Section 288a, Section 288.5,
31 subdivision (j) of Section 289, Section 311.1, 311.2, 311.3, or
32 311.11, or any felony conviction pursuant to subdivision (d) of
33 Section 261.5, or to any infraction.

34 (c) (1) Except as provided in paragraph (2), subdivision (a)
35 does not apply to a person who receives a notice to appear or is
36 otherwise charged with a violation of an offense described in
37 subdivisions (a) to (e), inclusive, of Section 12810 of the Vehicle
38 Code.

39 (2) If a defendant who was convicted of a violation listed in
40 paragraph (1) petitions the court, the court in its discretion and in

1 the interests of justice, may order the relief provided pursuant to
2 subdivision (a) to that defendant.

3 (d) A person who petitions for a change of plea or setting aside
4 of a verdict under this section may be required to reimburse the
5 court for the actual costs of services rendered, whether or not the
6 petition is granted and the records are sealed or expunged, at a rate
7 to be determined by the court not to exceed one hundred fifty
8 dollars (\$150), and to reimburse the county for the actual costs of
9 services rendered, whether or not the petition is granted and the
10 records are sealed or expunged, at a rate to be determined by the
11 county board of supervisors not to exceed one hundred fifty dollars
12 (\$150), and to reimburse any city for the actual costs of services
13 rendered, whether or not the petition is granted and the records are
14 sealed or expunged, at a rate to be determined by the city council
15 not to exceed one hundred fifty dollars (\$150). Ability to make
16 this reimbursement shall be determined by the court using the
17 standards set forth in paragraph (2) of subdivision (g) of Section
18 987.8 and shall not be a prerequisite to a person's eligibility under
19 this section. The court may order reimbursement in any case in
20 which the petitioner appears to have the ability to pay, without
21 undue hardship, all or any portion of the costs for services
22 established pursuant to this subdivision.

23 (e) (1) Relief shall not be granted under this section unless the
24 prosecuting attorney has been given 15 days' notice of the petition
25 for relief. The probation officer shall notify the prosecuting attorney
26 when a petition is filed, pursuant to this section.

27 (2) It shall be presumed that the prosecuting attorney has
28 received notice if proof of service is filed with the court.

29 (f) If, after receiving notice pursuant to subdivision (e), the
30 prosecuting attorney fails to appear and object to a petition for
31 dismissal, the prosecuting attorney may not move to set aside or
32 otherwise appeal the grant of that petition.

33 (g) Notwithstanding the above provisions or any other provision
34 of law, the Governor shall have the right to pardon a person
35 convicted of a violation of subdivision (c) of Section 286, Section
36 288, subdivision (c) of Section 288a, Section 288.5, or subdivision
37 (j) of Section 289, if there are extraordinary circumstances.

38 ~~SEC. 4.~~

39 *SEC. 11.* Section 1203.4a of the Penal Code is amended to
40 read:

1 1203.4a. (a) Every defendant convicted of a misdemeanor and
2 not granted probation, and every defendant convicted of an
3 infraction shall, at any time after the lapse of one year from the
4 date of pronouncement of judgment, if he or she has fully complied
5 with and performed the sentence of the court, is not then serving
6 a sentence for any offense and is not under charge of commission
7 of any crime, and has, since the pronouncement of judgment, lived
8 an honest and upright life and has conformed to and obeyed the
9 laws of the land, be permitted by the court to withdraw his or her
10 plea of guilty or nolo contendere and enter a plea of not guilty; or
11 if he or she has been convicted after a plea of not guilty, the court
12 shall set aside the verdict of guilty; and in either case the court
13 shall thereupon dismiss the accusatory pleading against the
14 defendant, who shall thereafter be released from all penalties and
15 disabilities resulting from the offense of which he or she has been
16 convicted, except as provided in Chapter 3 (commencing with
17 Section 29900) of Division 9 of Title 4 of Part 6 of this code or
18 Section 13555 of the Vehicle Code.

19 (b) If a defendant does not satisfy all the requirements of
20 subdivision (a), after a lapse of one year from the date of
21 pronouncement of judgment, a court, in its discretion and in the
22 interests of justice, may grant the relief available pursuant to
23 subdivision (a) to a defendant convicted of an infraction, or of a
24 misdemeanor and not granted probation, or both, if he or she has
25 fully complied with and performed the sentence of the court, is
26 not then serving a sentence for any offense, and is not under charge
27 of commission of any crime.

28 (c) (1) The defendant shall be informed of the provisions of
29 this section, either orally or in writing, at the time he or she is
30 sentenced. The defendant may make an application and change of
31 plea in person or by attorney, or by the probation officer authorized
32 in writing, provided that, in any subsequent prosecution of the
33 defendant for any other offense, the prior conviction may be
34 pleaded and proved and shall have the same effect as if relief had
35 not been granted pursuant to this section.

36 (2) Dismissal of an accusatory pleading pursuant to this section
37 does not permit a person to own, possess, or have in his or her
38 custody or control any firearm or prevent his or her conviction
39 under Chapter 2 (commencing with Section 29800) of Division 9
40 of Title 4 of Part 6.

1 (3) Dismissal of an accusatory pleading underlying a conviction
2 pursuant to this section does not permit a person prohibited from
3 holding public office as a result of that conviction to hold public
4 office.

5 (4) Dismissal of an accusation or information underlying a
6 conviction pursuant to this section does not relieve a person from
7 paying a restitution fine imposed pursuant to subdivision (b) of
8 Section 1202.4 or direct restitution imposed pursuant to subdivision
9 (f) of Section 1202.4.

10 (d) This section applies to any conviction specified in
11 subdivision (a) or (b) that occurred before, as well as those
12 occurring after, the effective date of this section, except that this
13 section does not apply to the following:

14 (1) A misdemeanor violation of subdivision (c) of Section 288.

15 (2) Any misdemeanor falling within the provisions of Section
16 42002.1 of the Vehicle Code.

17 (3) Any infraction falling within the provisions of Section 42001
18 of the Vehicle Code.

19 (e) A person who petitions for a dismissal of a charge under
20 this section may be required to reimburse the county and the court
21 for the cost of services rendered at a rate to be determined by the
22 county board of supervisors for the county and by the court for the
23 court, not to exceed sixty dollars (\$60), and to reimburse any city
24 for the cost of services rendered at a rate to be determined by the
25 city council not to exceed sixty dollars (\$60). Ability to make this
26 reimbursement shall be determined by the court using the standards
27 set forth in paragraph (2) of subdivision (g) of Section 987.8 and
28 shall not be a prerequisite to a person's eligibility under this
29 section. The court may order reimbursement in any case in which
30 the petitioner appears to have the ability to pay, without undue
31 hardship, all or any portion of the cost for services established
32 pursuant to this subdivision.

33 (f) A petition for dismissal of an infraction pursuant to this
34 section shall be by written declaration, except upon a showing of
35 compelling need. Dismissal of an infraction shall not be granted
36 under this section unless the prosecuting attorney has been given
37 at least 15 days' notice of the petition for dismissal. It shall be
38 presumed that the prosecuting attorney has received notice if proof
39 of service is filed with the court.

1 (g) Any determination of amount made by a court under this
2 section shall be valid only if either (1) made under procedures
3 adopted by the Judicial Council or (2) approved by the Judicial
4 Council.

5 ~~SEC. 5.~~

6 *SEC. 12.* Section 1203.41 of the Penal Code is amended to
7 read:

8 1203.41. (a) If a defendant is sentenced pursuant to paragraph
9 (5) of subdivision (h) of Section 1170, the court, in its discretion
10 and in the interests of justice, may order the following relief,
11 subject to the conditions of subdivision (b):

12 (1) The court may permit the defendant to withdraw his or her
13 plea of guilty or plea of nolo contendere and enter a plea of not
14 guilty, or, if he or she has been convicted after a plea of not guilty,
15 the court shall set aside the verdict of guilty, and, in either case,
16 the court shall thereupon dismiss the accusations or information
17 against the defendant and he or she shall thereafter be released
18 from all penalties and disabilities resulting from the offense of
19 which he or she has been convicted, except as provided in Section
20 13555 of the Vehicle Code.

21 (2) The relief available under this section may be granted only
22 after the lapse of one year following the defendant's completion
23 of the sentence, if the sentence was imposed pursuant to
24 subparagraph (B) of paragraph (5) of subdivision (h) of Section
25 1170, or after the lapse of two years following the defendant's
26 completion of the sentence, if the sentence was imposed pursuant
27 to subparagraph (A) of paragraph (5) of subdivision (h) of Section
28 1170.

29 (3) The relief available under this section may be granted only
30 if the defendant is not under supervision pursuant to subparagraph
31 (B) of paragraph (5) of subdivision (h) of Section 1170, and is not
32 serving a sentence for, on probation for, or charged with the
33 commission of any offense.

34 (4) The defendant shall be informed, either orally or in writing,
35 of the provisions of this section and of his or her right, if any, to
36 petition for a certificate of rehabilitation and pardon at the time he
37 or she is sentenced.

38 (5) The defendant may make the application and change of plea
39 in person or by attorney, or by a probation officer authorized in
40 writing.

1 (b) Relief granted pursuant to subdivision (a) is subject to the
2 following conditions:

3 (1) In any subsequent prosecution of the defendant for any other
4 offense, the prior conviction may be pleaded and proved and shall
5 have the same effect as if the accusation or information had not
6 been dismissed.

7 (2) The order shall state, and the defendant shall be informed,
8 that the order does not relieve him or her of the obligation to
9 disclose the conviction in response to any direct question contained
10 in any questionnaire or application for public office, for licensure
11 by any state or local agency, or for contracting with the California
12 State Lottery Commission.

13 (3) Dismissal of an accusation or information pursuant to this
14 section does not permit a person to own, possess, or have in his or
15 her custody or control any firearm or prevent his or her conviction
16 under Chapter 2 (commencing with Section 29800) of Division 9
17 of Title 4 of Part 6.

18 (4) Dismissal of an accusation or information underlying a
19 conviction pursuant to this section does not permit a person
20 prohibited from holding public office as a result of that conviction
21 to hold public office.

22 (5) Dismissal of an accusation or information underlying a
23 conviction pursuant to this section does not relieve a person from
24 paying a restitution fine imposed pursuant to subdivision (b) of
25 Section 1202.4 or direct restitution imposed pursuant to subdivision
26 (f) of Section 1202.4.

27 (c) This section applies to any conviction specified in
28 subdivision (a) that occurred before, on, or after January 1, 2014.

29 (d) A person who petitions for a change of plea or setting aside
30 of a verdict under this section may be required to reimburse the
31 court for the actual costs of services rendered, whether or not the
32 petition is granted and the records are sealed or expunged, at a rate
33 to be determined by the court not to exceed one hundred fifty
34 dollars (\$150), and to reimburse the county for the actual costs of
35 services rendered, whether or not the petition is granted and the
36 records are sealed or expunged, at a rate to be determined by the
37 county board of supervisors not to exceed one hundred fifty dollars
38 (\$150), and to reimburse any city for the actual costs of services
39 rendered, whether or not the petition is granted and the records are
40 sealed or expunged, at a rate to be determined by the city council

1 not to exceed one hundred fifty dollars (\$150). Ability to make
2 this reimbursement shall be determined by the court using the
3 standards set forth in paragraph (2) of subdivision (g) of Section
4 987.8 and shall not be a prerequisite to a person's eligibility under
5 this section. The court may order reimbursement in any case in
6 which the petitioner appears to have the ability to pay, without
7 undue hardship, all or any portion of the costs for services
8 established pursuant to this subdivision.

9 (e) (1) Relief shall not be granted under this section unless the
10 prosecuting attorney has been given 15 days' notice of the petition
11 for relief. The probation officer shall notify the prosecuting attorney
12 when a petition is filed, pursuant to this section.

13 (2) It shall be presumed that the prosecuting attorney has
14 received notice if proof of service is filed with the court.

15 (f) If, after receiving notice pursuant to subdivision (e), the
16 prosecuting attorney fails to appear and object to a petition for
17 dismissal, the prosecuting attorney may not move to set aside or
18 otherwise appeal the grant of that petition.